

**Rule 49. Special Verdict; General Verdict and Questions; Proceedings on Return of Verdict; Form of Verdict**

**(a) Special Verdict.**

- (1) **Generally.** The court may require a jury to return only a special verdict in the form of a special written finding on each issue of fact. The court may do so by:
  - (A) submitting written questions susceptible of a brief answer;
  - (B) submitting written forms of the special findings that might properly be made under the pleadings and evidence; or
  - (C) using any other method that the court considers appropriate.
- (2) **Instructions.** The court must give the instructions and explanations necessary to enable the jury to make its findings on each submitted issue.
- (3) **Issues Not Submitted.** A party waives the right to a jury trial on any issue of fact raised by the pleadings or evidence but not submitted to the jury unless, before the jury retires, the party demands its submission to the jury. If the party does not demand submission, the court may make a finding on the issue. If the court makes no finding, it is considered to have made a finding consistent with its judgment on the special verdict.

**(b) General Verdict with Answers to Written Questions.**

- (1) **Generally.** The court may submit to the jury forms for a general verdict, together with written questions on one or more issues of fact that the jury must decide. The court must give the instructions and explanations necessary to enable the jury to render a general verdict and answer the questions in writing, and must direct the jury to do both.
- (2) **Verdict and Answers Consistent.** If the general verdict and the answers are consistent, the court must approve, for entry under Rule 58, an appropriate judgment on the verdict and answers.
- (3) **Answers Inconsistent with the Verdict.** If the answers are consistent with each other but one or more is inconsistent with the general verdict, the court may:
  - (A) approve, for entry under Rule 58, an appropriate judgment according to the answers, notwithstanding the general verdict;
  - (B) direct the jury to further consider its answers and verdict; or
  - (C) order a new trial.
- (4) **Answers Inconsistent with Each Other and the Verdict.** If the answers are inconsistent with each other and one or more is also inconsistent with the general verdict, judgment must not be entered; instead, the court must direct the jury to further consider its answers and verdict, or must order a new trial.

(c) **Written Questions in Actions Seeking Equitable Relief.** If a jury is demanded in an action seeking equitable relief and more than one material issue of fact is presented, the court may submit written questions to the jury covering all or part of the issues of fact. The questions may be submitted only if the court approves them, and each question must be confined to a single question of fact and framed so that it can be answered yes or no. The jury's answers are advisory only and are not binding on the court.

(d) **Return of Verdict.**

- (1) **Number of Jurors Who Must Agree.** Subject to any stipulation of the parties under Rule 48, if a jury has 8 members, 6 or more members must agree on the verdict.
- (2) **Return of Verdict.** If the jurors unanimously agree on a verdict, it must be signed by the foreperson, either by affixing his or her signature on the verdict or by writing his or her juror number and initials on the verdict. The verdict will then be and returned to the court. If the jurors do not unanimously agree on a verdict, but a sufficient number agree to support the verdict, those jurors who agree must each sign the verdict, either by affixing their signatures on the verdict or by writing their juror numbers and initials on the verdict. The verdict will then be and returned ~~it~~ to the court.

(e) **Proceedings on Return of Verdict.**

- (1) **Generally.** Once a verdict is returned:
  - (A) the clerk must read the verdict and inquire of the jury if it is their verdict;
  - (B) if any juror disagrees that it is their verdict, the judge must poll the jury under Rule 49(e)(2); and
  - (C) if no juror disagrees, and subject to reformation under Rule 49(f), the court should receive the verdict, order it entered, and discharge the jury.
- (2) **Polling the Jury.** After the jury returns a verdict but before the court discharges the jury, the court must on a party's request, or may on its own, poll the jurors individually. The court must not identify the individual jurors by name during polling, but should use other methods or form of identification as is appropriate to ensure that the poll is accurate and to accommodate the jurors' privacy. If the poll reveals a lack of assent by the required number of jurors, the court may direct the jury to deliberate further or may order a new trial.

(f) **Form of Verdict.**

- (1) **Defective, Informal, or Nonresponsive Verdict.** On request of a party or on its own, the court may order that an informal or defective verdict be reformed. Any such reformation of the verdict should take place before the jury is discharged and with their assent. If the verdict is not responsive to the issue submitted to the jury, the court should inform the jury of the issue and require further deliberations.

- (2) ***No Special Form of Verdict Required.*** No special form of verdict is required. If the jury's verdict is in substantial compliance with the law, the court should enter judgment based on it, notwithstanding a defect in form.
- (3) ***Fixing Net Recovery Amount.*** If two opposing parties have claims against each other for the recovery of money, and each of those parties obtains a jury verdict awarding money, the jury must separately find the amount of recovery on each claim. The court may enter judgment for the party who has the greater recovery, in an amount reflecting the difference in the amounts awarded to the two parties.